

Case T-160/99

Gunnar Svantesson and Others
v
Council of the European Union

(Officials – Internal competition – Composition of selection board)

Full text in French II - 799

Application for: annulment of the decisions of the selection board for Internal Competition COUNCIL/LA/262 not to mark the optional papers sat by the applicants and not to admit them to the oral tests for that competition, and annulment of the whole of that competition.

Held: The decisions of the selection board for Internal Competition COUNCIL/LA/262 not to admit the applicants to the oral tests and not to mark their optional papers for the competition are annulled. The remainder of the application is dismissed. The Council is ordered to pay the costs.

Summary

*1. Officials – Competitions – Selection board – Composition – Qualification of members to assess tests objectively – Competition for translator-revisers – Use of qualified examiners – Conditions
(Staff Regulations, Annex III, Art. 3)*

*2. Officials – Actions – Judgment annulling decision – Effects – Annulment of decision of selection board in competition not to admit candidate to the oral test – Results of competition not called into question in their entirety
(Staff Regulations, Art. 91)*

1. In order to be constituted in accordance with the provisions of the Staff Regulations and Article 3 of Annex III thereto, the selection board in a competition based on qualifications and tests must be composed in such a way as to guarantee an objective assessment of the candidates' professional qualities in their performance in the tests. That requirement implies, in competitions for translator-revisers, that the members of the selection board must have a good understanding of the language in which the candidates will be required to sit the revision tests, although that does not mean that each member must necessarily have a perfect knowledge of that language. In that context, although the use of examiners is legitimate, it is for the members of the selection board, and not for third parties serving in an advisory capacity, to retain control over the procedures and to reserve discretionary power to themselves in the last resort.

(see paras 32-34, 38)

See: 4/78, 19/78 and 28/78 *Salerno and Others v Commission* [1978] ECR 2403, para. 15; T-32/89 and T-39/89 *Marcopoulos v Court of Justice* [1990] ECR II-281, paras 37 and 41; T-156/89 *Valverde Mordt v Court of Justice* [1991] ECR II-407, paras 105 and 106

2. If a competition selection board's decision not to admit a candidate to the oral tests is annulled, that person's rights are adequately protected if the appointing authority seeks a just solution in respect of him, without there being any need to call into question the entire results of the competition or to annul the appointments made in consequence of it.

(see para. 42)

See: T-43/91 *Hoyer v Commission* [1994] ECR-SC I-A-91 and II-297, para. 64